

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS LINDA CARMONA**DEFENDANTS BUDZIK & DYNIA, LLC**

(b) County of Residence of First Listed Plaintiff PHILADELPHIA
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number) Cary L. Flitter, Esq., and Theodore E. Lorenz, Esq., Flitter Lorenz, P.C., 450 N. Narberth Avenue, Suite 101, Narberth, PA 19072, (610) 822-0782

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF | DEF | PTF | DEF |
|--|--|----------------------------|----------------------------|
| Citizen of This State <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 424 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input checked="" type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
REAL PROPERTY	PRISONER PETITIONS	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 530 General			<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 535 Death Penalty			<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 540 Mandamus & Other			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 550 Civil Rights			
	<input type="checkbox"/> 555 Prison Condition			
	<input type="checkbox"/> 440 Other Civil Rights			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened
- Transferred from ☐ 5 another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause: FDCPA 15 USC § 1692

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No.

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 12/21/12 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 3638 Academy Road, Philadelphia, PA 19154-2040

Address of Defendant: 4849 N. Milwaukee Avenue, Suite 801, Chicago, IL 60630

Place of Accident, Incident or Transaction: 3638 Academy Road, Philadelphia, PA 19154-2040

(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) FDCPA, 15 USC § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability (Asbestos)
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: _____

Attorney-at-Law

Attorney I.D.

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 12/21/12

CIV.609 (4/03)

Attorney-at-Law

Attorney I.D.

E-Mail Address

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LINDA CARMONA
3638 Academy Road
Philadelphia, PA 19154-2040

Plaintiff,

vs.

CIVIL ACTION NO.

BUDZIK & DYNIA, LLC
4849 N. Milwaukee Avenue
Suite 801
Chicago, IL 60630

Defendant.

COMPLAINT

I. INTRODUCTION

1. This is an action for damages brought by a consumer pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 (“FDCPA”).

2. The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of a consumer debt.

3. Defendant is subject to strict liability for sending a collection letter which violates the provisions of the FDCPA.

II. JURISDICTION

4. Jurisdiction arises under 15 U.S.C. § 1692k, and 28 U.S.C. § 1337.

III. PARTIES

5. Plaintiff Linda Carmona (“Plaintiff”) is a consumer who resides in Philadelphia, Pennsylvania at the address captioned.

6. Defendant Budzik & Dynia, LLC (“Budzik & Dynia”) is an Illinois collection law firm with an office for the regular transaction of business at the address captioned.

7. Defendant regularly engages in the collection of consumer debts in the Eastern District of Pennsylvania using the mails and telephone.

8. Defendant regularly attempts to collect consumer debts alleged to be due another.

9. Defendant is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. § 1692a(6).

IV. STATEMENT OF CLAIM

10. On February 17, 2012, Budzik & Dynia sent Plaintiff a form collection letter in an attempt to collect a consumer debt alleged due its client. A copy of the February 17, 2012 letter is attached hereto as Exhibit A (redacted in part per Fed. R. Civ. 5.2).

11. The February 17, 2012 collection letter is on the letterhead of:

**Budzik & Dynia, LLC
Attorneys at Law**

and represents or implies that firm attorneys are licensed to practice law in Pennsylvania.

12. The February 17 collection dun states in part:

“[Y]our Account has been placed with our office to seek a voluntary resolution with you for the Total Amount Due on your account.”

13. The February 17, 2012 collection letter from Budzik & Dynia represents or implies that a lawyer has reviewed the file, made appropriate inquiry, and has exercised professional judgment in the sending of the collection letter. There was no such involvement.

14. Budzik & Dynia’s collection letter falsely implies that the collection of the account has been escalated by the hiring of a law firm to take steps, to collect the account.

15. In reality, and unbeknownst to the consumer, Budzik & Dynia sends this form collection letter in its capacity as a debt collector only, and not as a law firm (acting like a real law firm).

16. Defendant does not have Budzik & Dynia attorneys who are licensed to practice law in Pennsylvania.

17. The sentence in the February 17, 2012 collection letter that "...no attorney with this firm has personally reviewed the particular circumstances of your account at this time", does not ameliorate the effect of the collection letter sent on attorney letterhead.

18. The FDCPA prohibits debt collectors from using any false, deceptive, or misleading representations or means in connection with the collection of any debt. 15 U.S.C. § 1692e.

COUNT I - FAIR DEBT COLLECTION PRACTICES ACT

19. Plaintiff repeats the allegations contained above as if the same were here set forth at length.

20. The acts by Defendant described above violated the Fair Debt Collection Practices Act in the following ways:

- (a) By using false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of 15 U.S.C. § 1692e and § 1692e(10);
- (b) By falsely representing or implying that a communication is from an attorney, in violation of 15 U.S.C. § 1692e(3); and
- (c) By falsely implying the source, authorization or approval of the collection notice, in violation of 15 U.S.C. § 1692e(9).

WHEREFORE, Plaintiff Linda Carmona demands judgment against Defendant Budzik & Dynia, LLC for:


- (a) Damages;
- (b) Attorney's fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

V. DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury as to all issues so triable.

Respectfully submitted:

Date: 12/21/12



CARY L. FLITTER
THEODORE E. LORENZ
ANDREW M. MILZ
Attorneys for Plaintiff

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Narberth, PA 19072
(610) 822-0781

EXHIBIT “A”



BUDZIK & DYNIA, LLC
Attorneys at Law
 4849 N. Milwaukee Avenue
 Suite 801
 Chicago, IL 60630

*Licensed Attorneys in:
 Arizona Illinois New Jersey
 Arkansas Maine New York
 California Massachusetts Pennsylvania
 Connecticut Michigan Tennessee
 Florida Minnesota Utah
 Idaho Mississippi Wisconsin
 Iowa Nevada Wyoming

BDL #	Original Creditor	Current Creditor	Original Account #	Current Balance	Settlement Offer
02	WELLS FARGO FINANCIAL	Equable Ascent Financial, LLC	XXXXXXXXXX4176		

Phone: 773-902-1130 • Toll Free: 888-376-1094
 Fax: 773-482-6200 • Web: www.budzikdynia.com



Linda Carmona
 3638 Academy Rd
 Philadelphia, PA 19154-2040

3141

February 17, 2012

Dear Linda Carmona:

Your Account has been placed with our office to seek a voluntary resolution with you for the Total Amount Due on your account. Accordingly, if you want to resolve this matter, we are offering a **limited time opportunity** for you to resolve the debt (unless it has already been paid). If you cannot pay the Total Amount Due today, please contact us at 1-888-376-1094 to discuss further arrangements or to see if you qualify for a reduced settlement. These options are available for as long as this account remains in our office.

Please note that no attorney with this firm has personally reviewed the particular circumstances of your account at this time.

Federal law provides that if you do not provide us with a statement that you dispute the validity of this debt, or any portion thereof, within thirty days of the receipt of this letter, we may assume that such debt is valid. If you do dispute it by notifying us in writing to that effect, we will, as required by law, obtain verification of the debt or any related judgment against you, and mail such documentation to you. And, if within the same period, you request in writing the name and address of your original creditor, if the original creditor is different from the current creditor, we will furnish you with that information too.

The law does not require our client to wait until the end of the thirty day period before pursuing their contractual rights against you to collect this debt. If, however, you dispute the debt, or any part thereof, or request the name and address of the original creditor in writing within the thirty-day period, the law requires our firm to suspend our efforts to collect the debt until we mail the requested information to you.

Our client may provide information to credit bureaus about an insolvency, delinquency, late payment, or default in your account to include in your credit report as allowed by law.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

detach below and return in the enclosed envelope with your payment

4849 N Milwaukee Ave.
 Suite 801
 Chicago, IL 60630

BDL#	Current Balance	Settlement Offer
02		

Contact Number	Payment Amount
	\$

Linda Carmona
 3638 Academy Rd
 Philadelphia, PA 19154-2040

Make your check or money order payable to:
 Budzik & Dynia, LLC
 4849 N Milwaukee Ave.
 Suite 801
 Chicago, IL 60630

*When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.